



ACCOUNTABILITY TRANSLATION BRIEF
SAMPLE — PREPARED FOR DEMONSTRATION PURPOSES

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Federal Student Loan Transfer to the Department of the Treasury

Federal Student Assistance Partnership Announced

Illegal Executive Dismantling of a Congressionally Mandated Agency

I work at the intersection of public trust, political clarity, and democratic resilience. I track accountability failures as they unfold and translate them into clear, real-life experiences for the public, and signals for those responsible for fixing them.

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DATE OF BRIEF
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Federal Student Loan Transfer to the Department of the Treasury **Illegal Executive Dismantling of a Congressionally Mandated Agency**

Date of Brief	March 24, 2026
Analyst	Accountability & Enforcement Analyst
Event Date	March 20, 2026 - Federal Student Assistance Partnership announced
Originating Directive	Executive Order, March 20, 2025
Portfolio at Issue	\$1.7 trillion federal student loan portfolio
Borrowers Affected	Approximately 43 million; 7+ million currently in default
Classification	Sample - Prepared For Demonstration Purposes

This Brief is prepared for informational and advocacy purposes. It does not constitute legal advice. Recipients should consult qualified legal counsel before initiating litigation or formal oversight proceedings.

Executive Summary

On March 20, 2026, the Department of Education and the Department of the Treasury executed the Federal Student Assistance Partnership, transferring operational responsibility for defaulted federal student loan debt to Treasury. The administration has stated this is the first phase of a multi-phase process that will end with Treasury assuming the entirety of the \$1.7 trillion federal student loan portfolio.

This Brief finds that the transfer is unauthorized. Title IV of the Higher Education Act vests statutory authority for federal student loan programs specifically in the Secretary of Education. That authority cannot be administratively reassigned to another executive agency absent Congressional legislation. No such legislation exists. Congress has affirmatively warned that Secretary McMahon lacks authority to execute such transfers. The action proceeded regardless.

The accountability chain is complete and traceable. Three named officeholders bear legal exposure. The Administrative Procedure Act provides the litigation vehicle. Congressional oversight provides the political vehicle. This Brief provides the evidentiary chain for both.

Layer 1	Trigger	• IDENTIFIED
Layer 2	Authority Holder	• IDENTIFIED
Layer 3	Required Action	• NOT TAKEN
Layer 4	Outcome	• FAILED

Layer 1: Trigger

What legally required action created this accountability moment?

The trigger for this Brief is not a policy announcement. It is a structural legal event: the execution of an administrative action that exceeds the statutory authority of the officials who executed it. That excess is the accountability gap, running from the originating executive order through every implementation step that followed.

Primary Legal Authority: Title IV, Higher Education Act of 1965

The Higher Education Act, specifically Title IV, vests statutory authority for federal student loan programs in the Secretary of Education and the Department of Education by name. This is not a general grant of executive authority. It is a specific Congressional assignment of function to a specific agency. That specificity is legally dispositive: the Executive does not have discretion to reassign what Congress has specifically assigned.

Trigger Date One: March 20, 2025

President Trump signed an executive order directing Secretary McMahon to facilitate the closure of the Department of Education and to take all necessary steps toward that end. This is the originating directive. An executive order cannot override a statute. From the moment of signing, any implementation that exceeded statutory authority was unauthorized.

Trigger Date Two: March 20, 2026

The Department of Education executed the Federal Student Assistance Partnership, transferring operational responsibility for defaulted federal student loan debt to Treasury. This is the first operational execution of the March 2025 directive against the \$1.7 trillion portfolio. This is the primary accountability trigger.

The Department of Education’s statutory authority over federal student loan programs derives from Title IV of the Higher Education Act of 1965, as amended. That authority is congressionally assigned and cannot be administratively reassigned to another executive agency absent new legislation. The trigger for this accountability analysis is the executive directive ordering transfer of federal student loan management to the Department of the Treasury, an action for which no authorizing legislation exists.

Layer 2: Authority Holders

Who held legally recognized power to act at that moment?

This layer names offices and persons. Not the administration. Not federal officials. Named offices carry legal obligations. Named persons carry legal exposure. Three authority holders are identified in this Brief. Each carries a distinct accountability weight.

Authority Holder One: Secretary of Education Linda McMahon

Primary authority holder. Most legally exposed.

Title IV of the Higher Education Act vests statutory authority for federal student loan programs in the Secretary of Education specifically. McMahon held the legal obligation to administer that authority within its statutory boundaries, not to transfer it out of the agency by interagency agreement. Her own public statements confirm she understood the scope of the action: she described the transfer as “an intentional and historic step toward breaking up the federal education bureaucracy.” That is not routine administration. It is an admission of structural dismantling.

Accountability finding: Secretary McMahon held Title IV authority. She executed a transfer of that authority without Congressional authorization. She did so knowingly, on notice from Congress that she lacked authority to do so, and described it publicly as intentional.

Authority Holder Two: Secretary of the Treasury Scott Bessent

Receiving authority holder. Distinct legal exposure.

Treasury has no statutory framework under the Higher Education Act for managing student loan borrower relationships, income-driven repayment administration, borrower defense, or public service loan forgiveness. By accepting operational responsibility for the \$1.7 trillion portfolio, Bessent accepted statutory functions Treasury has no legal authority to administer under the governing statute. Acceptance of an unauthorized transfer is not a defense. It compounds the accountability chain.

Accountability finding: Secretary Bessent accepted transfer of statutory functions Treasury has no legal authority to administer. The acceptance is itself an unauthorized act.

Authority Holder Three: President Donald Trump

Originating authority holder.

The President issued the originating directive via executive order on March 20, 2025, directing McMahon to facilitate the closure of the Department of Education. That order set both McMahon and Bessent in motion. An executive order cannot override a statute. The order did not dissolve McMahon’s obligation to stay within her statutory authority.

Accountability finding: The President issued a directive to dismantle a congressionally mandated agency through administrative action. Eliminating the Department of Education requires Congressional authorization. The executive order cannot substitute for that authorization regardless of how it is implemented downstream.

Authority Holder Four: The United States Congress

Sole legislative authority holder. Not an executive actor, but the only actor who could have made this legal.

Congress is named here not as a party that failed to act, but because the structure of authority requires it. Title IV authority cannot move between executive agencies without Congressional legislation. Congress is the only actor with legal power to authorize what occurred. Its absence from that role is not a gap in the analysis. It is the architecture of the problem. Layer 3 addresses what Congress would have been required to do to make this legal, and why that pathway was bypassed entirely.

Accountability finding: Congress held and continues to hold exclusive authority to authorize the transfer of Title IV functions. It has not acted. The result is not legislative inaction. It is the legal void through which an unauthorized executive action now operates.

Layer 3: Required Action

What specifically was required to happen?

Required actions are stated as verb phrases. If an action cannot be stated as a verb phrase, there is no clarity. This layer identifies what was required of named officeholders and what the only legal pathway to a legitimate transfer would have required. That pathway was bypassed entirely.

What Secretary McMahon Was Required to Do

1. Retain and exercise statutory authority as assigned. The HEA does not grant the Secretary of Education discretion to reassign programmatic authority to another agency. McMahon was required to continue administering the federal student loan portfolio through Federal Student Aid until Congress authorized otherwise.

2. Identify the statutory limit of the executive order and refuse to execute actions beyond it. An executive order cannot override a statute. McMahon was required to implement the March 2025 order only to the extent consistent with her statutory authority, and to decline implementation where it was not. She had an affirmative legal obligation to identify and respect that limit.

3. Transmit a legislative proposal to Congress and await authorization before executing any transfer of programmatic authority. Congress had already issued clear warnings that she lacked authority to move programs to other agencies. Once on notice, the required action was to seek Congressional authorization before proceeding. She did not.

What Secretary Bessent Was Required to Do

Decline acceptance of statutory functions Treasury has no authority to administer under the Higher Education Act. Treasury's prior operational roles, including fund disbursement, tax data sharing, and the Treasury Offset Program, are support functions performed at Education's direction. Assuming programmatic authority over borrower rights and the full loan portfolio is

categorically different. That distinction is legally required, and Bessent was required to maintain it.

What Congress Was Required to Do to Make This Legal

The only legal pathway to transferring Title IV authority out of the Department of Education is legislation. Specifically, Congress would have been required to amend the Higher Education Act to reassign programmatic authority, or pass a standalone reorganization statute, or pass an abolishment bill dissolving the Department and reassigning its functions. None of these actions occurred. The legal pathway was not unused. It was deliberately bypassed through interagency agreements rebranded as administrative cooperation.

Every required action in this chain had a legal basis and a named actor responsible for it. None was taken. What follows in Layer 4 is not a finding about policy failure. It is a finding about the specific consequences of skipping every legal checkpoint that existed.

Layer 4: Outcome

Did the required action occur? What are the traceable consequences?

No required action was taken. The transfer proceeded. This layer documents what actually happened, the accountability gaps it created, the legal exposure of named officeholders, and the available oversight and litigation pathways that follow.

What Actually Happened

On March 20, 2026, Secretary McMahon and Secretary Bessent executed the Federal Student Assistance Partnership. Treasury assumed operational responsibility for collecting on defaulted federal student loan debt as the first phase of a multi-phase process the administration has stated will end with Treasury assuming the entire \$1.7 trillion portfolio. McMahon did not stay within statutory boundaries. She did not decline the executive order where it exceeded her authority. She did not seek Congressional authorization. Bessent did not decline the transfer. Congress was not asked to legislate.

The administration's public framing of efficiency, financial expertise, and improved borrower service does not alter the legal analysis. The administration's own reporting confirms the actual intent: the transfers are designed to convince Congress the Department is no longer needed. That is not administrative efficiency. That is manufacturing a *fait accompli* to coerce Congressional action after the fact.

Pattern Finding: This Is Not an Isolated Action

The student loan transfer is one documented instance of a recurring mechanism: statutory authority being administratively reassigned without Congressional authorization in order to reduce public accountability for the outcome. This mechanism has produced at least three additional confirmed instances within the same agency, each following the same structural pattern.

Confirmed additional instances of the same mechanism:

- 1. Office for Civil Rights capacity reduction (January to March 2026).** Secretary McMahon directed reduction of OCR staff below functional threshold. The statutory obligation to investigate discrimination complaints under Title VI and Title IX remains in force. No Congressional authorization exists for the functional elimination of a mandated office.
- 2. Federal Student Aid operational transfer, Phase 1 (March 20, 2026).** Secretary McMahon and Secretary Bessent executed transfer of default collection authority to Treasury. No statutory authority was cited in the interagency agreement. The same mechanism is in use for all subsequent announced transfer phases.
- 3. Nine additional interagency agreements transferring Education Department functions (March 2025 to March 2026).** The administration has confirmed nine interagency agreements have transferred Education Department functions to other agencies without Congressional legislation. Named recipients and specific authorities transferred have not been fully disclosed publicly.

Each instance follows the same structure: an executive directive is issued, an interagency agreement is executed, a public framing of administrative efficiency is offered, and the statutory authority being bypassed is not named in the public record. The pattern is not incidental. It is the mechanism. **An Accountability Translation Brief is available for each confirmed instance. Organizations tracking this pattern across litigation, Congressional oversight, and donor-facing communications should contact Lorena Tambini to discuss a multi-brief engagement.**

Accountability Gaps: Named and Traceable

Accountability Gap	Finding
No Legal Authority Cited	The interagency agreement of March 20, 2026 does not state the statutory authority under which the transfer is made. An action of this magnitude executed without stated legal basis is presumptively unauthorized under the APA.
Borrower Rights in Legal Void	Title IV borrower rights, including income-driven repayment, borrower defense, and public service loan forgiveness, are administered by Treasury, which has no statutory framework under the HEA to do so. Over 7 million borrowers in default are directly affected.
Congressional Authority Nullified	Congress has not abolished the Department of Education, amended the HEA, or passed reorganization legislation. The functional result of these interagency agreements is the operational dismantling of a congressionally mandated agency through administrative rebranding.

Legal Exposure of Named Officeholders

Named Officeholder	Legal Exposure
<p>Secretary Linda McMahon <i>Secretary of Education</i></p>	<p>Executed interagency transfer of Title IV programmatic authority without statutory basis. Acted on notice from Congress that she lacked authority to do so. Public statements confirm the action was intentional and structural. Exposure: APA violation; action in excess of statutory authority; acting on notice of legal limits.</p>
<p>Secretary Scott Bessent <i>Secretary of the Treasury</i></p>	<p>Accepted operational responsibility for a \$1.7 trillion statutory portfolio without legal framework to administer HEA borrower rights. Acceptance of an unauthorized transfer is co-execution of an unauthorized action. Exposure: co-execution of unauthorized administrative action.</p>
<p>President Donald Trump <i>President of the United States</i></p>	<p>Issued originating directive via executive order (March 20, 2025) directing McMahon to facilitate closure of the Education Department. An executive order cannot override a statute. Exposure: originating an unlawful directive that set the chain of unauthorized action in motion.</p>

Illustrative Organizational Uses

Buyer	Actionable Use
<p>Litigation-Focused Organizations</p>	<p>The March 20, 2026 interagency agreement is APA-challengeable on two grounds: (1) arbitrary and capricious agency action; (2) action in excess of statutory authority under 5 U.S.C. § 706. Named defendants: Secretary McMahon and Secretary Bessent. This Brief provides the four-layer evidentiary chain supporting both grounds.</p>
<p>Watchdog & Oversight Organizations</p>	<p>Congressional oversight demands should target three specific questions: (1) What statutory authority authorizes this transfer? (2) How will Treasury administer HEA borrower rights? (3) What is the legal basis and timeline for each subsequent phase? This Brief documents the gap between required and actual action that grounds each demand.</p>
<p>Democracy & Accountability Nonprofits</p>	<p>The student loan transfer is the largest and most legally exposed instance of a broader strategy of administrative dismantling without Congressional authorization. Nine other interagency agreements have transferred Education Department functions. This Brief provides the evidentiary foundation for donor-facing and public accountability communications about that pattern.</p>

Core Accountability Finding

The administration's public frame is efficiency and improved borrower service. The structural outcome is an unauthorized transfer of statutory authority by named officeholders acting on notice of their legal limits, leaving more than 7 million borrowers in a legal void and nullifying Congressional authority through administrative rebranding. That gap is not incidental. It is the finding.

Methodology Note

Each Accountability Translation Brief is built around verifiable structure, not interpretation. Authority is traced to statute or formal designation. Required actions are stated as verb phrases tied to named obligations. Execution is documented, not inferred. Gaps are identified by direct comparison between what was required and what occurred.

Where authority is partial, conditional, or contested, that is stated explicitly. This Brief distinguishes between what an actor had authority to do, what they were obligated to do, and what they actually did. Those are three separate findings. Conflating them is the most common source of accountability analysis that does not hold up under scrutiny.

This Brief does not determine what a team should do with its findings. It determines what the evidence supports. Every actionable use identified in Layer 4 is grounded in that evidentiary chain, not in advocacy, not in outcome preference, and not in assumptions about what enforcement will follow. Recipients should evaluate findings against their own legal and strategic constraints before acting.

Sources

Higher Education Act of 1965, Title IV (20 U.S.C. §§ 1070 et seq.). Statutory basis for federal student loan programs; vests authority in the Secretary of Education.

Administrative Procedure Act, 5 U.S.C. § 706. Grounds for judicial review: arbitrary and capricious agency action; action in excess of statutory authority.

Executive Order, March 20, 2025. Directed Secretary McMahon to facilitate closure of the Department of Education.

Federal Student Assistance Partnership (Interagency Agreement). Executed March 20, 2026 by the Department of Education and the Department of the Treasury.

Congressional Warnings to Secretary McMahon. Formal notices that the Secretary lacks authority to transfer programs and offices to other federal agencies without Congressional authorization.

Request an Accountability Translation Brief

For organizations requiring decision-grade analysis tied to verifiable authority, execution, and outcome.

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